

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RYSTA LEONA SUSMAN, Both)
individually and as Legal Guardian of)
Shane Allen Loveland; and JACOB)
SUMMERS)

Plaintiff(s),)

CASE NO. 8:18CV127

v.)

THE GOODYEAR TIRE & RUBBER)
COMPANY)

Defendant(s).)

**PLAINTIFFS' RESPONSE TO GOODYEAR'S MOTION IN LIMINE TO EXCLUDE
PLAINTIFFS' PURPORTED TIRE FAILURE EXPERT DAVID SOUTHWELL FROM
OFFERING OPINIONS AT TRIAL FIRST DISCLOSED DURING HIS DEPOSITION,
BUT NOT INCLUDED IN HIS EXPERT REPORT**

Plaintiffs submits this response to Goodyear's Motion in Limine Seeking to Preclude Plaintiffs' Purported Tire Failure Expert, David Southwell, from Offering Opinions at Trial First Disclosed During his Deposition, But Not Included in his Expert Report.

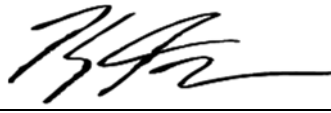
I.

Plaintiffs' expert David Southwell will testify about Goodyear's investigation into the tread separation crisis in LRE tires and the documented problems with the Subject Tire, but Mr. Southwell will not testify that Goodyear should have recalled the tire. Mr. Southwell will testify that Goodyear's analysis in the mid-1990s demonstrates the tire was unreasonably dangerous, and that Goodyear's actions during this period support the conclusion that the tire was defective. But Mr. Southwell will not allege there was a post-sale duty to recall, nor suggest that Goodyear should have recalled the tire. Rather his testimony about post-sale information and conduct is offered only to show the tire was defective at the time of its design.

Respectfully Submitted,

KASTER, LYNCH, FARRAR & BALL, L.L.P.

Dated: February 11, 2020

By 

Kyle Wayne Farrar (Pro Hac Vice)
Texas Bar No. 24038754
Wesley Todd Ball (Pro Hac Vice)
1117 Herkimer Street
Houston, TX 77008
(713) 221-8300 (Telephone)
(713) 221-8301 (Facsimile)
Email: kyle@fbtrial.com

and

Paul E. Godlewski (#35567)
SCHWEBEL GOETZ & SIEBEN, P.A.
5120 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2246
612-377-7777 (Telephone)
612-333-6311 (Facsimile)
Email: pgodlewski@schwebel.com

and

Michael F. Coyle
FRASER, STRYKER LAW FIRM
409 South 17th Street
Ste. 500, Energy Plaza
Omaha, Nebraska 681025
(402) 341-6000 (Telephone)
(402) 341-8290 (Facsimile)
mcoyle@fraserstryker.com

CERTIFICATE OF SERVICE (CM/ECF)

I HEREBY CERTIFY that on February 11, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

Edward S. Bott, Jr
Clark W. Hedger
Juliane M. Rodriguez
10 South Broadway, Ste 2000
St. Louis, MO 63102
esb@greensfelder.com
chl@greensfelder.com
jrodriguez@greensfelder.com

Jennifer D. Tricker
1700 Farnam Street, Ste 1500
Omaha, NE 68102
jtricker@bairdholm.com

Attorneys for Defendant Goodyear Tire & Rubber Company